

OTIF/RID/CE/GTP/2018/13

9 October 2018

Original: English

RID: 10th Session of the RID Committee of Experts' standing working group
(Krakow, 21 to 23 November 2018)

Subject: Obligations of the participants involved in an occurrence according to
1.8.5.1

Proposal transmitted by Spain

SUMMARY

Executive summary:	Following the amendment adopted at the last Joint Meeting, Spain would like to discuss the obligation to submit an accident report according to 1.8.5.1.
Decision to be taken:	Clarify the role of the infrastructure manager in 1.8.5.1.
Relates documents:	ECE/TRANS/WP.15/AC.1/2018/30 transmitted by the Government of Austria to the RID/ADR/ADN Joint Meeting of 17-21 September 2018.

Introduction

1. At the last Joint Meeting held in Geneva, document ECE/TRANS/WP.15/AC.1/2018/30 transmitted by the Government of Austria was discussed. The original Austrian proposal was to substitute the consignee by the unloader in the list of participants who are involved in submitting the accident report in 1.8.5.1. Nevertheless, after the discussion it was decided to add the unloader to this list, but not to delete the consignee from the list.
2. The arguments put forward in support of this decision were that, according to 1.4.1.3, it is possible for Contracting States to transfer the obligations from a specific participant to one or several others, and therefore, practices might differ from one Contracting State to another. Additionally, the report could be sent by one or more participants.

3. According to this decision, the text of 1.8.5.1 in RID would read:

*If a serious accident or incident takes place during loading, filling, carriage or unloading of dangerous goods on the territory of an RID Contracting State, the loader, filler, carrier, **unloader**, consignee or if the case may be the railway infrastructure manager, respectively, shall ascertain that a report conforming to the model prescribed in 1.8.5.4 is made to the competent authority of the RID Contracting State concerned at the latest one month after the occurrence.*

4. And the French version of this text would read:

*Si un accident ou un incident grave se produit lors du chargement, du remplissage, du transport ou du déchargement de marchandises dangereuses sur le territoire d'un État partie au RID, le chargeur, le remplisseur, le transporteur, **le déchargeur** ou le destinataire, et le cas échéant le gestionnaire de l'infrastructure ferroviaire, doivent respectivement s'assurer qu'un rapport établi selon le modèle prescrit au 1.8.5.4 soit soumis à l'autorité compétente de l'État partie au RID concerné dans un délai d'un mois après que l'événement s'est produit.*

5. We have noted that there is a slight difference between the English and the French versions of the text. The English text, translated literally from French, should read:

*If a serious accident or incident takes place during loading, filling, carriage or unloading of dangerous goods on the territory of an RID Contracting State, the loader, filler, carrier, **unloader or consignee, or and** if the case may be the railway infrastructure manager, respectively, shall ascertain that a report conforming to the model prescribed in 1.8.5.4 is made to the competent authority of the RID Contracting State concerned at the latest one month after the occurrence.*

6. Spain would like to clarify the meaning of the expressions “respectively” and “and/or if the case may be”, the latter in regards to the railway infrastructure manager.

Analysis

7. Spain is of the opinion that after the amendments approved by the Joint Meeting in September, the expression “respectively” is no longer relevant. There is no possible direct correlation between the actions described (loading, filling, carriage, etc.) and the participants in the transport chain (loader, filler, carrier, etc.), as there is now no specific action related to the consignee. The same is the case with regard to the railway infrastructure manager.
8. Spain’s interpretation is that, in case of an accident or incident, the different participants should hand in an accident report if they are involved in the accident. That means that more than one accident report has to be submitted if there is more than one participant involved. Therefore, Spain thinks that the word “respectively” should now be deleted in order to make the text clearer, because “respectively” would restrict submission of the report to only one participant. As this issue also concerns ADR and ADN, it should be discussed at the Joint Meeting.
9. For the infrastructure manager, the expression “if the case may be” seems to indicate that it may not be necessary for the infrastructure manager to submit an accident report. The difference between the English and French versions (and/or) also confuses the situation.
10. The infrastructure manager has been singled out by adding “and/or if the case may be”; this could have been added for the other participants as well.

11. Spain would like to discuss in which cases it is thought that the infrastructure manager should not submit a report, as we think that the infrastructure manager should always be involved if an accident happens during carriage on the network that it manages.
12. Spain would also like to ask the RID Committee of Experts' standing working group its opinion on including all the participants in the transport chain in this paragraph. As the consignee has been maintained in 1.8.5.1, even if he performs no direct action in the transport process, it may be interesting to include other participants. The consignor, packer, tank-wagon operator, tank-container/portable tank operator or entity in charge of maintenance could have interesting information on an accident that could help clarify the occurrence, and it might be useful if they could be called upon to submit an accident report. In this respect, it is noted that the packer has to prepare an accident report according to 1.8.3.6 when an accident happens.

Proposal

13. Spain proposes to discuss the aspects mentioned in paragraphs 7, 8 and 12. Depending on the outcome, Spain may submit a proposal to the next Joint Meeting.
14. Spain also proposes to modify 1.8.5.1 by deleting "if the case may be". 1.8.5.1 would then read:

*If a serious accident or incident takes place during loading, filling, carriage or unloading of dangerous goods on the territory of an RID Contracting State, the loader, filler, carrier, **unloader**, consignee, ~~or if the case may be~~ the railway infrastructure manager, respectively, shall ascertain that a report conforming to the model prescribed in 1.8.5.4 is made to the competent authority of the RID Contracting State concerned at the latest one month after the occurrence.*
